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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN**

**Request for Modifying the Conditions or Term of Supervision
without Consent of the Offender**

November 14, 2014

Name of Offender: **MICHAEL JOHN MODENA** Docket Number: 1:09:CR:0037-01

Name of Sentencing Judicial Officer: The Honorable Janet T. Neff
U.S. District Judge

Date of Original Sentence: March 16, 2010

Original Offense: Count One: Felon in Possession of Firearms and Ammunition; 18 U.S.C. § 922(g)(1)

Count Two: Domestic Violence Misdemeanant in Possession of Firearms and Ammunition; 18 U.S.C. § 922(g)(9)

Original Sentence: 72 months custody of the Bureau of Prisons followed by three years supervised release. Special Conditions: (1) mental health treatment; (2) financial information; (3) full time employment. \$100.00 special assessment (balance \$25.00); \$1,000.00 fine (balance \$1,000.00).

February 24, 2010: Motion to vacate the conviction on Count Two on the basis of double jeopardy was granted by the Court.

June 25, 2014: Warrant issued by Your Honor. Mr. Modena was arrested on June 26, 2014 and remanded at the initial appearance. At the preliminary and detention hearing on July 3, 2014, Mr. Modena was placed on a \$25,000.00 unsecured bond.

July 22, 2014: At the Final Revocation Hearing, Mr. Modena pled guilty to failing to report within 72 hours and failing to follow instructions of the probation officer. Mr. Modena supervised release was continued for a term of 18 months.

Type of Supervision: Supervised Release

Date Supervision Commenced: June 20, 2014

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PETITIONING THE COURT

[x] To Delete Special Condition Number One (1):

1. The defendant shall participate in a program of mental health treatment, as directed by the probation officer, until such time as the defendant is released from the program by the probation officer, and shall pay at least a portion of the cost according to his ability, as determined by the probation officer.

CAUSE

During his mental health session, Mr. Modena refused to sign his treatment plan in fear it would go to his probation officer or the Court and prolong his time in treatment. Mr. Modena indicated he does not need therapy and will not benefit from it. Per his therapist, a treatment plan is a necessity to be in services. The therapist does not believe Mr. Modena is making any progress on his mental health or any buy in for his treatment. Mr. Modena has been attending but he is not participating or making any progress.

This officer spoke with Mr. Modena on November 13, 2014 at the probation office. To his credit, he has been reporting as required, maintains full time employment and maintains an approved residence. Mr. Modena has also been attending mental health treatment but he does not make it easy for the therapist. Mr. Modena's focus is on trying to get court ordered contact with his kids. Mr. Modena's beliefs are so ingrained in him and he is intelligent enough to truly circumvent any real progress in treatment. He admitted on November 13, 2014, that he wants a treatment plan that would indicate exactly how many more sessions he would have to attend and this officer assured him it does not work that way. When it comes down to it, Mr. Modena will not change no matter how many therapy sessions he attends and it is possible it would be more detrimental to continue to require mental health treatment long term. At this point, mental health treatment for Mr. Modena appears to be a waste of time and resources. If there are any new concerns that present themselves in the future with Mr. Modena, he could be immediately referred to mental health treatment again.

This matter was brought to the Court's attention via e-mail correspondence and Your Honor requested the above mentioned condition be removed.

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Respectfully Submitted:

/s/ Amy L. Vander Velde
Amy L. Vander Velde
U.S. Probation Officer Specialist
616-456-2896

Reviewed and Approved: /s/ Mark A. Trowbridge, Sr.
Mark A. Trowbridge, Sr.
Supervising U.S. Probation Officer
616-456-2092

THE COURT ORDERS:

☐ No Action
☒ The Modification of Conditions as Noted Above
☐ Other

/s/ Janet T. Neff
The Honorable Janet T. Neff
U.S. District Judge

November 17, 2014
Date